



# **Military Memorials of National Significance Act 2008**

**No. 80, 2008**

**An Act to provide for certain memorials to have the  
status of Military Memorials of National  
Significance, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to provide for certain memorials to have the  
status of Military Memorials of National  
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*[Assented to 12 July 2008]*

The Parliament of Australia enacts:

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*Military Memorials of National Significance Act 2008 No. 80, 2008 1*

## Part 1 Preliminary

### Section 1

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## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Military Memorials of National Significance Act 2008*.

### 2 Commencement

This Act commences on the day on which it receives the Royal Assent.

### 3 Definition

In this Act:

*State or Northern Territory authority* means:

- (a) a State or the Northern Territory; or
- (b) a local government body, or other authority, established by or under a law of a State or the Northern Territory.

## **Part 2—Declaration of Military Memorials of National Significance**

### **4 Declaration of Military Memorials of National Significance**

- (1) The Minister may, by notice published in the *Gazette*, declare a memorial to be a Military Memorial of National Significance if:
  - (a) an application for the memorial to be so declared has been made in accordance with section 7 (subject to subsection (2) of this section); and
  - (b) the Minister is satisfied that the memorial meets the criteria specified in subsection (3); and
  - (c) the Prime Minister has, in writing, agreed to the making of the declaration.
- (2) Paragraph (1)(a) does not apply in relation to the Australian Ex-Prisoners of War Memorial in Ballarat.
- (3) For the purpose of paragraph (1)(b), the criteria are as follows:
  - (a) the memorial is of a scale, design and standard appropriate for a memorial of nationally significant status, and is appropriately dignified and symbolic;
  - (b) the memorial commemorates Australia's military involvement in a significant aspect of Australia's wartime history, and that is its sole purpose;
  - (c) the memorial has a major role in community commemorations;
  - (d) Commonwealth flag protocols are observed in relation to the memorial;
  - (e) the memorial is owned or managed by a State or Northern Territory authority that has responsibility (including financial responsibility) for the ongoing maintenance of the memorial, and for any refurbishments;
  - (f) the memorial complies with applicable planning, construction and related requirements;

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- (g) the memorial is located on public land within a State or the Northern Territory;
  - (h) the memorial is publicly accessible and there is no entry fee;
  - (i) the memorial is a completed and functioning memorial;
  - (j) the memorial is not associated with a commercial function that conflicts with its commemorative purpose.
- (4) The following are not legislative instruments:
- (a) a notice published in the *Gazette* under subsection (1);
  - (b) an agreement by the Prime Minister under paragraph (1)(c).

### 5 Approval of alterations

- (1) The Minister may, in writing, approve an alteration to a memorial in relation to which a declaration under section 4 has been made if:
- (a) an application for approval of the alteration has been made in accordance with section 7; and
  - (b) the Minister is satisfied that the memorial will still meet the criteria specified in subsection 4(3) if the alteration is made.
- (2) An approval under subsection (1) is not a legislative instrument.

### 6 Revocation of declarations

- (1) The Minister may, by notice published in the *Gazette*, revoke a declaration made under section 4 in relation to a memorial if:
- (a) either:
    - (i) the Minister is no longer satisfied that the memorial meets the criteria specified in subsection 4(3); or
    - (ii) the memorial has been altered since the declaration was made, and the Minister has not approved the alteration under section 5; and
  - (b) the Prime Minister has, in writing, agreed to the revocation of the declaration.
- (2) The following are not legislative instruments:
- (a) a notice published in the *Gazette* under subsection (1);
  - (b) an agreement by the Prime Minister under paragraph (1)(b).



## **7 Making applications**

- (1) Subject to this section, an application may be made for:
  - (a) a memorial to be declared to be a Military Memorial of National Significance; or
  - (b) approval of an alteration to a memorial that has been declared to be a Military Memorial of National Significance.
- (2) The application can only be made by, or on behalf of, a State or Northern Territory authority that owns or manages the memorial.
- (3) The applicable requirements of the regulations must be complied with in relation to the application.

## **8 Consultation**

For the purpose of making decisions under this Act, the Minister may consult any persons or bodies that the Minister thinks it appropriate to consult.

## Part 3—Miscellaneous

### 9 Commonwealth not responsible for declared memorials

The Commonwealth does not have any responsibility (financial or otherwise) for a memorial merely because a declaration has been made under section 4 in relation to the memorial.

### 10 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*[Minister's second reading speech made in—  
House of Representatives on 19 March 2008  
Senate on 24 June 2008]*

(63/08)

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